IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

CHAMBER SUMMONS NO.943 OF 2004
IN
SUIT NO.4007 OF 2002

Chaudhary Abdul Majid Shahadat
and Ors .....Plffs.
vs.
Chaudhary Abdul Shahadat and Ors...Defds.
AND
Rudolph M. Taluro and Ors. ...Respondents

Ms. Manjiri Shah i/b. Thakore Jariwala and Associates for the defendants.
Mr, D.H. Mehta with Y.V. Divekar i/b. Diveker and Co. for defendant no.6.
Mr. Gautam Panchan i/b. Bilawala and co. for defendant nos.7 to 10, 11 to 14,16, 17, 27, 28, 31/
Mr. Jayesh Patel for defendant no.15.
Mr. D.R. Dhurat,1Asstt. to Court Receiver present.

CORAM: S.U. KAMDAR, J.

DATE : 12TH APRIL, 2005.

P.C. :

1. Learned counsel appearing for the plaintiff in

supports of the chamber summons gives u p the prayer (c) to (h) and is pressing only prayer (a) and (b) of the chamber summons. In so far as prayer (a) is concerned the said prayer is also given up as against the respondent nos.4, 5, 6, 7, 20, 47, 48, 130, 131, 175, 176, 188, 189 because of non service. Learned counsel reserves the liberty to apply afresh as against these respondents after effecting service of proceedings on them. The said chamber summons as against the aforesaid respondents is dismissed with the liberty to take out fresh chamber summons. In so far as other respondents are concerned, chamber summons made absolute in terms of prayer clause (a).

2. Learned counsel for defendant no.6 has vehemently opposed the aforesaid chamber summons on the ground that the present chamber summons is an exercise in malafide. It has been contended that the plaintiff at the highest has got very miniscule share in the property and therefore the present application should not be granted. It has been contended that even if the suit is to be considered

the respondent nos.1 to 215 who are flat purchasers are not necessary or proper party to the suit. I am of the opinion that whatever may be miniscule share of the plaintiff in the said property it is an undivided share. Thus the plaintiffs have right to the extent of share in the whole property. In the event if the plaintiff has to succeed consequential reliefs cannot be granted unless respondent nos.1 to 235 are added as party defendants to the suit became rights inrespect of the said property is created in their favour. In view thereof respondent no.1 to 15 are necessary and proper party and if relief is granted to the plaintiff it is likely to affect the interest of the aforesaid parties. Chamber summons therefore made absolute in terms of prayer (a).

3. In so far as prayer (b) is concerned the plaintiff is insisting for inspection of documents specified in item-3 of the schedule-2 and in so far item-2 of schedule-2 is concerned they are restricting the same to the suit transactions of the flat purchaser and or defendants is concerned. Therefore necessary inspection to the aforesaid

extent can be granted. With the aforesaid clarification, chamber summons made absolute in terms of prayer clause (b). Defendant no.6 is directed to give inspection of the documents mentioned at serial no.2 within a period of 8 weeks from today, Chamber summons disposed off accordingly.

sd/-

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